

KLESTADT WINTERS JURELLER SOUTHARD & STEVENS, LLP

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Proposed Attorneys for the Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
	:
1141 REALTY OWNER LLC, <u>et al.</u> ,	: Case No. 18-12341 (SMB)
	:
Debtors.	: Joint Administration Pending
	:
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**APPLICATION FOR AN ORDER APPOINTING OMNI MANAGEMENT GROUP, INC.  
AS CLAIMS AND NOTICING AGENT FOR THE DEBTORS PURSUANT TO 28 U.S.C.  
§ 156(c), 11 U.S.C. § 105(a) AND LOCAL RULE 5075-1**

1141 Realty Owner LLC (“Owner”) and Flatironhotel Operations LLC (“Operator”, and together with Owner, the “Debtors”)<sup>1</sup>, the debtors and debtors-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Cases”), hereby submit this application (this “Section 156(c) Application”) for entry of an order, substantially in the form of Exhibit C attached hereto (the “Retention Order”), pursuant to Section 156(c) of title 28 of the United States Code, Section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Local Rule 5075-1 of the Local Rules of Bankruptcy Procedure for the Southern District of New York (the “Local

<sup>1</sup> The Debtors herein and the last four digits of their respective tax identification number are: 1141 Realty Owner LLC (1804) and Flatironhotel Operations LLC (4773). The Debtors’ principal place of business is 9 West 26<sup>th</sup> Street a/k/a 1141 Broadway, New York, New York.

Rules”), appointing Omni Management Group, Inc. (“Omni”), as claims and noticing agent in the Debtors’ Chapter 11 Cases. In support of this Motion, the Debtors rely on the First Day Declaration (defined below) submitted contemporaneously herewith, and in addition respectfully states as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding under 28 U.S.C. § 157(b).
3. Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409.

**BACKGROUND**

4. On the date hereof (the “Petition Date”), the Debtors each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to manage and operate their respective businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. The Court and interested parties are respectfully referred to the Declaration of James Katchadurian Pursuant to Local Bankruptcy Rules 1007-2 and 9007-1 (the “First Day Declaration”)<sup>2</sup> for a detailed description of the Debtors’ businesses and events leading to the commencement of the Chapter 11 Cases.

6. The United States Trustee has not appointed an official creditors’ committee in the Chapter 11 Cases. No trustee or examiner has been appointed in the Chapter 11 Cases.

**RELIEF REQUESTED**

7. This Section 156(c) Application is made pursuant to 28 U.S.C. § 156(c), Section 105(a) of the Bankruptcy Code and Local Rule 5075-1 for an order appointing Omni to act as

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<sup>2</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the First Day Declaration.

claims and noticing agent in order to assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in the Debtors' Chapter 11 Cases. The Debtors' selection of Omni to act as the claims and noticing agent is in compliance with the Court's *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)* (the "S.D.N.Y. Claims Agent Protocol"), in that the Debtors have obtained and reviewed engagement proposals from at least two (2) other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that Omni's rates are competitive and reasonable given Omni's quality of services and expertise. The terms of retention are set forth in the Engagement Agreement annexed hereto as Exhibit A the ("Engagement Agreement"); provided, however, that the Debtors are seeking approval solely of the terms and provisions set forth in this Section 156(c) Application and the proposed Retention Order attached hereto.

8. By appointing Omni as the claims and noticing agent in these Chapter 11 Cases, the distribution of notices and the processing of claims will be expedited, and the Clerk's office will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of this Section 156(c) Application, the Debtors submit the Declaration of Paul H. Deutch, Executive Managing Director of Omni, a copy of which is attached hereto as Exhibit B (the "Deutch Declaration").

#### **SCOPE OF RETENTION**

9. This Application pertains only to the work to be performed by Omni under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and Local Rule 5075-1. Any work to be performed by Omni outside of this scope is not covered by this Application or by any order granting approval thereof. Specifically, Omni will perform the following tasks in its role as claims and noticing agent, as well as all quality control relating thereto:

(a) prepare and serve required notices and documents in the Chapter 11 Cases in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of the Chapter 11 Cases and the initial meeting of creditors under Bankruptcy Code Section 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement and confirmation of the Debtors’ plan of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan and (vii) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of the Chapter 11 Cases.

(b) maintain an official copy of the Debtors’ schedules of assets and liabilities and statement of financial affairs (collectively, the “Schedules”), listing the Debtors’ known creditors and any amounts owed thereto;

(c) maintain (i) a list of potential creditors, equity holders and other parties-in-interest; and (ii) a “core” mailing list consisting of all parties described in Sections 2002(i), (j) and (k) of the Bankruptcy Rules and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update said lists and make said lists available upon request by a party-in-interest or the Clerk;

(d) furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify said potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;

(e) maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;

(f) for *all* notices, motions, orders or other pleadings or documents served, prepare and file or cause to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;

(g) process all proofs of claim received, including those received by the Clerk’s office, check said processing for accuracy, and maintain the original proofs of claim in a secure area;

(h) maintain the official claims register for the Debtors (the “Claims Register”) on behalf of the Clerk on a case specific website; upon the Clerk’s request, provide the Clerk with certified, duplicate unofficial Claims Register; and specify in the Claims Register the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, etc.), and (vi) any disposition of the claim;

(i) provide public access to the Claims Register, including complete proofs of claim with attachments, if any, without charge;

(j) implement necessary security measures to ensure the completeness and integrity of the Claims Register and the safekeeping of the original claims;

(k) record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);

(l) relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Omni, not less than weekly;

(m) upon completion of the docketing process for all claims received to date for the case, turn over to the Clerk upon the Clerk’s request copies of the Claims Register for the Clerk’s review;

(n) monitor the Court’s docket for all notices of appearance, address changes, and claims-related pleadings and orders filed, and make necessary notations on and/or changes to the Claims Register;

(o) assist in the dissemination of information to the public and respond to requests for administrative information regarding the Chapter 11 Cases as directed by the Debtors or the Court, including through the use of a case website and/or call center;

(p) if the Chapter 11 Cases are converted to chapter 7, contact the Clerk’s office within three (3) days of the notice of entry of the order converting the Chapter 11 Cases;

(q) thirty (30) days prior to the close of the Chapter 11 Cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing the Omni and terminating the services of such agent upon completion of its duties and responsibilities and upon the closing of the Chapter 11 Cases;

(r) within seven (7) days of notice to Omni of entry of an order closing the Chapter 11 Cases, provide to the Court the final version of the Claims Register as of the date immediately before the close of the Chapter 11 Cases; and

(s) at the close of the Chapter 11 Cases, box and transport all original documents, in proper format, as provided by the Clerk's office, to (i) the Federal Archives Record Administration, located at Central Plains Region, 200 Space Center Drive, Lee's Summit, MO 64064 or (ii) any other location requested by the Clerk's office.

10. The Claims Register shall be opened to the public for examination without charge during regular business hours and on a case-specific website maintained by Omni, as claims and noticing agent.

11. Omni shall not employ any past or present employees of the Debtors for work that involves the Debtors' bankruptcy cases.

### **COMPENSATION**

12. The Debtors respectfully request that the undisputed fees and expenses incurred by Omni in the performance of the above services be treated as administrative expenses of the Debtors' Chapter 11 estates pursuant to 28 U.S.C. § 156(c) and Section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business without further application to, or order of, the Court. Omni agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and to serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

13. Prior to the Petition Date, the Debtors provided Omni, as claims and noticing agent, a retainer in the amount of \$5,000. The Debtors seek to first apply the retainer to all prepetition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to allow Omni to hold the retainer under the Engagement Agreement during the Chapter

11 Cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

**DISINTERESTEDNESS**

14. Although the Debtors do not propose to employ Omni under section 327 of the Bankruptcy Code pursuant to this Application (such retention will be sought by a separate application), Omni has nonetheless reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by the Debtors, and, to the best of the Debtors' knowledge, information and belief, and except as disclosed in the Deutch Declaration, Omni has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

15. In connection with its retention as claims and noticing agent, Omni represents in the Deutch Declaration, among other things, that:

(a) Omni will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in these Chapter 11 Cases;

(b) by accepting employment in the Chapter 11 Cases, Omni waives any rights to receive compensation from the United States government in connection with the Debtors' Chapter 11 Cases;

(c) in its capacity as the claims and noticing agent in these Chapter 11 Cases, Omni will not be an agent of the United States and will not act on behalf of the United States; and

(d) Omni is a "disinterested person" as that term is defined in Section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.

**BASIS FOR RELIEF REQUESTED**

16. Section 156(c) of title 28 of the United States Code, which governs the staffing and expenses of a bankruptcy court, authorizes the Court to use "facilities" or "services" other than the Clerk's Office for administration of bankruptcy cases. It provides, in relevant part:

Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

17. In addition, Local Rule 5075-1 provides, in pertinent part, as follows:

The Court may direct, subject to the supervision of the Clerk, the use of agents to file Court records, either by paper or electronic means, to issue notices, to maintain case dockets, to maintain Judges' calendars, and to maintain and disseminate other administrative information where the costs of such facilities or services are paid for by the estate.

S.D.N.Y. LBR 5075-1.

18. This Section 156(c) Application complies with the S.D.N.Y. Claims Agent Protocol and conforms to the standard Section 156(c) Application in use in this Court. The Debtors have provided copies of this Section 156(c) Application to the Clerk of Court and to the United States Trustee.

19. The Debtors anticipate that there will be hundreds, and perhaps thousands, of entities to be noticed. Without the assistance of a claims and noticing agent, the Debtors are not equipped to efficiently and effectively distribute all notices that are likely to be required in these Chapter 11 Cases. In view of the number of anticipated claimants and the complexity of the Debtors' business, the Debtors submit that the appointment of a claims and noticing agent is both necessary and in the best interests of the Debtors' estates and their creditors.

20. The Debtors believe that their estates and creditors will benefit from Omni's retention and that Omni is fully equipped to handle the volume of mailing involved in properly

sending the required notices to, and processing the claims of, creditors and other parties in interest in these Chapter 11 Cases.

21. To the extent that there is any inconsistency between this Section 156(c) Application, the Retention Order and the Engagement Agreement, the Retention Order shall govern.

**NOTICE**

22. No trustee, examiner or creditors' committee has been appointed in these Chapter 11 Cases. Notice of this Motion will be given to: (a) the Office of the U.S. Trustee (b) known holders of secured claims; (c) the holders of the 25 largest unsecured claims; and (d) all other parties requesting notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required.

**NO PRIOR REQUEST**

23. No previous application for the relief requested herein has been made to this or any other court.

**WHEREFORE**, the Debtors request entry of the Retention Order, in the form attached hereto as Exhibit C, authorizing Omni to act as claims and noticing agent for the maintenance and processing of claims and the distribution of notices.

Dated: New York, New York  
July 31, 2018

KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP

By: /s/ Tracy L. Klestadt

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Joseph C. Corneau  
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bscott@klestadt.com  
creilly@klestadt.com

*Proposed Attorneys for the Debtors and  
Debtors-in-Possession*

**EXHIBIT A**  
**(Engagement Agreement)**

**OMNI MANAGEMENT GROUP**  
**5955 De Soto Avenue, Suite 100**  
**Woodland Hills, CA 91367**  
**818-906-8300**

July 18, 2018

Jay Vaswani  
Managing Member  
1141 Realty Owner LLC and Flatiron Hotel Operations LLC  
9 W 26th Street  
New York, NY 10010

**Re: Omni Management Group Retention letter**

Mr. Vaswani:

This letter (the “Agreement”) will acknowledge that you have requested Omni Management Group, Inc. (“Omni”) to provide services to 1141 Realty Owner LLC and Flatiron Hotel Operations LLC (collectively, the “Companies”) in preparation of, and in connection with, the Companies’ potential joint chapter 11 filing. Omni will make itself available to the Companies, *as requested*, for the purposes of assisting the Companies with pre- and post-petition case administration matters including data entry, preparation and management of the creditor matrix, preparation of schedules of assets and liabilities and statements of financial affairs, claims management, noticing, plan solicitation and tabulation, distribution, the development and maintenance of a virtual data room, the development and maintenance of an informational website, and any other services as may be requested by the Companies.

The services to be rendered by Omni will be billed at rates ranging from \$25.00 to \$155.00 per hour as per the attached rate sheet. Rates are adjusted annually on January 2<sup>nd</sup> of each year, and are subject to increases not to exceed ten (10%) percent per annum. Increases greater than ten (10%) percent per annum will be discussed with you, and be subject to your prior approval, before becoming effective.

For all such services rendered, we require a \$5,000 retainer. All charges will be on a portal to portal basis plus out-of-pocket expenses. Omni shall be compensated on a monthly basis for those services performed by Omni during the preceding calendar month. Invoices are payable within 7 days of receipt by the Companies.

Each of Omni and the Companies, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such

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July 18, 2018  
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information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information.

The parties understand that the software programs and other materials furnished by Omni pursuant to this Agreement and/or developed during the course of this Agreement by Omni are the sole property of Omni. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Debtors agree not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement. The Debtors further agree that any ideas, concepts, know-how or techniques relating to data processing or Omni's performance of its services developed during the course of its Agreement by Omni shall be the exclusive property of Omni. Upon the Debtors' request at any time or times while this Agreement is in effect, Omni shall immediately deliver to the Debtors and/or the Debtors' retained professionals, at the Debtors' expense, any or all of the non-proprietary data and records held by Omni pursuant to this Agreement, in the form requested by the Debtors.

To the fullest extent permitted by applicable law, the Companies shall indemnify and hold harmless Omni and its members, directors, officers, employees, representatives, affiliates, consultants, subcontractors and agents (collectively, the "Indemnified Parties") from and against any and all losses, claims, damages, judgments, liabilities and expenses, whether direct or indirect (including, without limitation, counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to Omni's performance hereunder. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third parties against any Indemnified Parties. Omni and the Companies shall notify each other in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that either party becomes aware of with respect to the services provided under and pursuant to the Agreement. The Companies' indemnification of Omni hereunder shall exclude Losses resulting from Omni's gross negligence or willful misconduct. The Companies' indemnification obligations hereunder shall survive the termination of this Agreement.

Except as expressly provided herein, Omni's liability to the Companies for any Losses, unless due to Omni's gross negligence or willful misconduct, shall be limited to the total amount paid by the Companies for the portion of the particular work that gave rise to the alleged Loss. In no event shall Omni's liability to the Debtors for any Losses arising out of this Agreement exceed the total amount actually paid to Omni for services provided under and pursuant to this Agreement. In no event shall Omni be liable for any indirect, special or consequential damages (such as loss of anticipated profits or other economic loss) in connection with or arising out of the services provided under and

Jay Vaswani  
July 18, 2018  
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pursuant to this Agreement.

This Agreement is terminable at will by the parties hereto upon thirty (30) days written notice. Notwithstanding the foregoing, either party may terminate this Agreement immediately upon written notice in the event of a breach by the other party. In the event that this Agreement is terminated, regardless of the reason for such termination, Omni shall cooperate with the Companies to maintain an orderly transfer of all records, data and information and record keeping functions, and shall provide all necessary staff, services and assistance required for an orderly transfer. The Companies agree to pay for such services in accordance with Omni's then existing prices for such services.

Please acknowledge the above by signing and returning a copy of this letter. Should you have any questions regarding the above, please do not hesitate to call me.

Sincerely,



Paul H. Deutch  
Senior Vice President

Enc.

cc: Tracy Klestadt, Esq.  
Christopher Creger  
Brian Osborne

**1141 REALTY OWNER LLC AND FLATIRON  
HOTEL OPERATIONS LLC**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jay Vaswani  
Managing Member

## Rate Sheet

WWW.OMNIMGT.COM

### Hourly Rates for Standard and Custom Services

#### RATE/COST

Analyst	\$25.00 - \$40.00 per hour
Consultants	\$50.00 - \$125.00 per hour
Senior Consultants	\$140.00 - \$155.00 per hour
Equity Services	\$175.00 per hour
Technology/Programming	\$85.00 - \$135.00 per hour
President/Executive (Brian Osborne and Paul Deutch, with 52 years combined restructuring experience, provide supervisory services at no charge.)	Waived

### Printing and Noticing Services

Copy	\$.10 per image
Document folding and insertion	No Charge
Labels/Envelope printing	\$.035 each
E-mail noticing	No charge
Bulk E-mail noticing (Over 10,000 parties)	Quote Upon Request
Certified email	Quote upon request
Facsimile noticing	\$.10/image
Postage	At cost (Advance payment required for postage charges over \$10,000)
Envelopes	Varies by size

### Newspaper and Legal Notice Publishing

Coordinate and publish legal notice	Quote prior to publishing
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### Claims Management

Inputting proofs of claim	Hourly rates (No per claim charges)
Scanning	\$.10/image
Remote Internet access for claims management	
Setup	No charge
Access	No charge

### Creditor Database

Data storage	Waived for 3 months. Under 10,000 records - No charge, Over 10,000 records - .05 per record, Over 100,000 records - .04 per record
Per image storage	No charge

### Informational Website

Creation, configuration, and initial setup	No charge
Data entry/information updates	\$60.00 per hour
Programming and customization	\$85 - \$135.00 per hour
Debtor website hosting	No charge
Committee website hosting	No charge



## Rate Sheet

WWW.OMNIMGT.COM

Shareholder website hosting	No charge
Scanning	\$.10/image

### ▲ Virtual Data Rooms Quote upon request

### ▲ Call Centers / Dedicated Line

Creation, configuration and initial setup	No charge
Hosting fee	\$5.50 per month
Usage	\$.0825 per minute
Service rates (actual talk and log-entry time)	\$60.00 per hour

### ▲ Case Docket / Claims Register No charge

### ▲ Solicitation and Tabulation

Plan and disclosure statement mailings	Quoted prior to printing
Ballot tabulation	Standard hourly rates apply

### ▲ Public Debt and Equities Securities and/Rights Offerings Services

Noticing Services	Standard hourly rates apply
Solicitation, Balloting and Tabulation	Standard hourly rates apply
Rights Offerings	Standard hourly rates apply
Security Position Identification Reports	Standard hourly rates apply

### ▲ Schedules / SoFA

Preparation and updating of schedules and SoFAs	\$50.00 - \$155.00 per hour
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### ▲ UST Reporting Compliance

(e.g., assist debtors to meet satisfy jurisdictional requirements, preparation of monthly operating and post-confirmation reports)	Standard hourly rates apply
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### ▲ Miscellaneous

Telephone charges	At cost
Delivery	At cost
Archival DVD/CD-Rom	\$40.00 per copy

### ▲ Real-Time Reports

Claims dashboard	No charge
Claim reports	\$25.00
Solicitation dashboard	No charge
Tabulation dashboard	No charge
Solicitation reports	\$25.00
Service list manager	\$0.05 per party, per generated list



**Exhibit B**  
**(Declaration)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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:   
In re: : Chapter 11  
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1141 REALTY OWNER LLC, et al., : Case No. 18-12341 (SMB)  
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Debtors. : Joint Administration Pending  
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**DECLARATION OF PAUL H. DEUTCH IN SUPPORT OF DEBTORS’  
APPLICATION FOR AN ORDER APPOINTING OMNI MANAGEMENT GROUP,  
INC., AS CLAIMS AND NOTICING AGENT FOR THE DEBTORS  
PURSUANT TO 28 U.S.C. § 156(c), 11 U.S.C. § 105(a) AND LOCAL RULE 5075-1**

PAUL H. DEUTCH, makes this declaration under 28 U.S.C. §1746, and states the following:

1. I am the Senior Vice President of Omni Management Group, Inc (“Omni”), a bankruptcy administrator and class action settlement company, and I am authorized to make and submit this declaration on behalf of Omni.

2. This declaration (the “Declaration”) is submitted in support of the Application of 1141 Realty Owner LLC and Flatironhotel Operations LLC (collectively, the “Debtors”), debtors and debtors-in-possession in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), seeking authorization to retain Omni as the official claims and noticing agent (the “Claims and Noticing Agent”) in the Debtors’ Chapter 11 Cases (the “Section 156 (c) Application”).<sup>3</sup> Except as otherwise noted, I have personal knowledge of the facts contained in this Declaration.

3. Omni is one of the country’s leading Chapter 11 case administrators and is well equipped to assist the Debtors in connection with the Chapter 11 Cases. Omni specializes in providing comprehensive administrative services to debtors in chapter 11 cases including, among

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<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Section 156 (c) Application.

other things, services pertaining to noticing and managing the administration of the Debtors' claims and claims register.

4. The Debtors have selected Omni to serve as their claims and noticing agent, as further detailed in the Section 156(c) Application. The services to be performed by Omni are set forth in detail in both the Section 156(c) Application and the Engagement Agreement by and between the Debtors and Omni, attached to the Section 156(c) Application as Exhibit A, and are incorporated herein by reference. Omni will charge the Debtors the rates set forth in a pricing schedule provided to the Debtors and set forth in the Engagement Agreement.

5. Omni represents, among other things, that:

- (a) Omni will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in these Chapter 11 Cases;
- (b) by accepting employment in the Chapter 11 Cases, Omni waives any rights to receive compensation from the United States government in connection with the Debtors' Chapter 11 Cases;
- (c) in its capacity as the Claims and Noticing Agent in these Chapter 11 Cases, Omni will not be an agent of the United States and will not act on behalf of the United States;
- (d) Omni will not employ any past or present employees of the Debtors in connection with its work as the claims and noticing agent in these Chapter 11 Cases; and
- (e) Omni is a "disinterested person" as that term is defined in Bankruptcy Code Section 101(14) with respect to the matters upon which it is to be engaged.

6. At this time, to the best of my knowledge, neither Omni, nor any of its professional personnel have any relationship with the Debtors that would impair Omni's ability to serve as Claims and Noticing Agent.

7. Omni may have relationships with some of the Debtors' creditors, but they are in matters completely unrelated to the Chapter 11 Cases, either as vendors or in cases where Omni

serves in a neutral capacity as a settlement claims administrator or bankruptcy administrator. Omni's assistance in the cases where Omni acts as a class action settlement claims administrator has been primarily related to the design and dissemination of legal notice and other administrative functions in class actions. In addition, Omni personnel may have relationships with some of the Debtors' creditors, however, such relationships are of a personal, financial nature and completely unrelated to the Chapter 11 Cases. Omni has working relationships with certain of the professionals retained by the Debtors and other parties herein, but such relationships are completely unrelated to the Chapter 11 Cases. Omni has represented, and will continue to represent, clients in matters unrelated to the Chapter 11 Cases, and has had, and will continue to have, relationships in the ordinary course of its business with certain vendors and professionals in connection with matters unrelated to the Chapter 11 Cases.

8. Omni has not been retained to assist any entity or person other than the Debtors on matters relating to, or in connection with, the Chapter 11 Cases. If Omni's proposed retention is approved by this Court, Omni will not accept any engagement or perform any service for any entity or any person other than the Debtors in these Chapter 11 Cases without the express consent and authority of the Debtors. In addition, Omni may provide professional services to entities or persons that may be creditors or parties in interest in these Chapter 11 Cases, which services do not relate to, or have any direct connection with, the Chapter 11 Cases or the Debtors.

9. The Debtors do not owe Omni any amounts for services performed or expenses incurred prior to the Petition Date. Prior to the Petition Date, Omni received a retainer of \$5,000.00 in anticipation of the services to be rendered by Omni in connection with the commencement of the Chapter 11 Cases. Omni will first apply the retainer against all prepetition fees and expenses and thereafter against the final bill issued to the Debtors for fees and expenses for services that

Omni will render in the Chapter 11 Cases.

10. Subject to the Court's approval, the Debtors have agreed to compensate Omni for professional services rendered in connection with the Chapter 11 Cases, pursuant to the Engagement Agreement. Payments shall be made by the Debtors to Omni upon Omni's submission of billing statements, including a detailed listing of services and expenses, at the end of each calendar month.

11. Omni shall comply with all requests of the Clerk of the Court and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct

Dated: July 30, 2018  
New York, New York

/s/ Paul H. Deutch  
Paul H. Deutch  
Senior Vice President  
Omni Management Group, Inc.

**Exhibit C**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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:   
In re: : Chapter 11  
:   
1141 REALTY OWNER LLC, et al., : Case No. 18-12341(SMB)  
:   
Debtors. : Joint Administration Pending  
:   
----- X

**ORDER AUTHORIZING RETENTION AND APPOINTMENT OF OMNI  
MANAGEMENT GROUP, INC. AS CLAIMS AND NOTICING AGENT  
UNDER 28 U.S.C. § 156(c), 11 U.S.C. § 105(A) AND S.D.N.Y. LBR 5075-1  
AND GRANTING RELATED RELIEF**

Upon the Application (the “Section 156(c) Application”)<sup>4</sup> of 1141 Realty Owner LLC (“Owner”) and Flatironhotel Operations LLC (“Operator”, and together with Owner the “Debtors”), debtors and debtors-in-possession in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), for an order authorizing the retention and appointment of Omni Management Group, Inc. (“Omni”) as claims and noticing agent pursuant to 28 U.S.C. § 156(c), Section 105(a) of the Bankruptcy Code and Local Rule 5075-1 to, among other things, (i) distribute required notices to parties in interest, (ii) receive, maintain, docket and otherwise administer the proofs of claim filed in the Debtors’ Chapter 11 Cases, and (iii) provide such other administrative services as required by the Debtors that would fall within the purview of services to be provided by the Clerk’s Office, and upon the Deutch Declaration submitted in support of the Section 156(c) Application, and the Debtors having estimated that there are hundreds, and perhaps thousands, of creditors in the Chapter 11 Cases, many of which are expected to file proofs of claim, and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time

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<sup>4</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Section 156(c) Application.

consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that Claims and Noticing Agent has the capability and experience to provide such services and that Claims and Noticing Agent is disinterested as that term is defined under section 101(14) of the Bankruptcy Code and does not hold an interest adverse to the Debtors or the estate respecting the matters upon which it is to be engaged; and good and sufficient notice of the Section 156(c) Application having been given; and no other or further notice being required; and it appearing that the employment of Omni is in the best interests of the Debtors, the estates and creditors; and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. Notwithstanding the terms of the Engagement Letter attached to the Section 156(c) Application, the Section 156(c) Application is approved solely as set forth in this Order.
2. The Debtors are authorized to retain Omni as the claims and noticing agent effective as of the Petition Date under the terms of the Engagement Agreement, and Omni is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in the Chapter 11 Cases, and all related tasks, all as described in the Section 156(c) Application.
3. Omni shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these Chapter 11 Cases and is authorized and directed to maintain an official claims register for the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court, and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. Omni is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

5. Omni is authorized to take such other action to comply with all duties set forth in the Section 156(c) Application.

6. The Debtors are authorized to compensate Omni in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by Omni and the rates charged, and to reimburse Omni for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for Omni to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. Omni shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel for the Debtors, counsel for any official committee of unsecured creditors, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices and that the parties may seek resolution of the matter from the Court if resolution is not achieved.

9. Pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of Omni under this Order shall be treated as an administrative expense of the Debtors' chapter 11 estates.

10. Omni shall first apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, Omni may hold the retainer under

the Engagement Agreement during the Chapter 11 Cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. In the event Omni is unable to provide the services set out in this Order, Omni will immediately notify the Clerk and Debtors' attorney and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtors' attorney.

12. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by Omni but is not specifically authorized by this Order.

13. The Debtors and Omni are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Section 156(c) Application.

14. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

15. Omni shall not cease providing claims processing services during the Chapter 11 Cases for any reason, including nonpayment, without an order of the Court.

16. Omni shall be discharged at the conclusion of the Chapter 11 Cases, or as otherwise provided by entry of an additional order by the Court, and at the conclusion of the Chapter 11 Cases, Omni may dispose of any records, documents and the like that have been provided or delivered to Rust Omni, whether in paper or electronic form, after holding and maintaining such records for a period of seven (7) years following the closing of the Chapter 11 Cases, subject to Omni's responsibility for archiving the claims with the Federal Archives Record Administration, if applicable.

17. This Order shall be immediately effective and enforceable upon its entry.

18. To the extent that there may be any inconsistency between the terms of the Section 156(c) Application, the Engagement Agreement or this Order, the terms of this Order shall govern.

Dated: New York, New York  
July\_\_\_\_, 2018

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UNITED STATES BANKRUPTCY JUDGE